

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRUSTEES OF THE UNIVERSITY : CIVIL ACTION
OF PENNSYLVANIA :
: :
v. : :
: :
ST. JUDE CHILDREN'S RESEARCH : NO. 12-4122
HOSPITAL :

TRUSTEES OF THE UNIVERSITY : CIVIL ACTION
OF PENNSYLVANIA :
: :
v. : :
: :
ST. JUDE CHILDREN'S RESEARCH : NO. 13-1502
HOSPITAL :

ORDER

AND NOW, this 13th day of November, 2013, upon
consideration of defendant St. Jude Children's Research
Hospital's ("St. Jude") response to our Order to Show Cause, its
motion to for partial summary judgment and alternative motion
for a separate trial (C.A. No. 12-4122, docket entry # 28), the
response in opposition thereto filed by plaintiff Trustees of
the University of Pennsylvania ("Penn"), St. Jude's motion for
leave to file a reply in support of that motion (C.A. No. 12-
4122, docket entry # 35), Penn's opposition in response thereto,
Penn's original complaint in C.A. No. 13-1502, St. Jude's motion
to dismiss that complaint (C.A. No. 13-1502, docket entry # 12),
Penn's amended complaint, St. Jude's answer and counterclaims,

Penn's partial motion to dismiss (C.A. No. 13-1502, docket entry # 18), and St. Jude's response in opposition thereto, and for the reasons discussed in the accompanying Memorandum, it is hereby ORDERED that:

1. The Clerk of Court shall CONSOLIDATE C.A. No. 12-4122 and C.A. No. 13-1502 as C.A. No. 13-1502;

2. All papers filed in C.A. No. 12-4122 are to be placed in the file for C.A. No. 13-1502 and the Clerk shall CLOSE C.A. No. 12-4122 statistically;

3. St. Jude's motion for partial summary judgment and alternative motion for a separate trial (C.A. No. 12-4122, docket entry # 28) is DENIED;

4. St. Jude's motion for leave to file a reply in support of its motion for summary judgment or a new trial (C.A. No. 12-4122, docket entry # 35) is GRANTED;

5. St. Jude's motion to dismiss (C.A. No. 13-1502, docket entry # 12) is DENIED AS MOOT;

6. Penn's motion to dismiss St. Jude's counterclaim of willful infringement (C.A. No. 13-1502, docket entry # 18) is GRANTED IN PART and DENIED IN PART, as follows:

a. With respect to the period beginning on June 27, 2013 the motion is GRANTED; and

b. With respect to the period from March 19, 2013 through June 26, 2013 the motion is DENIED;

7. The parties shall COMPLETE discovery by January 24, 2014¹;

8. Trial in this matter, not to exceed four days of evidence per side, shall COMMENCE on Monday, February 10, 2014, at 9:30 a.m. in Courtroom 15-B;

9. Any motions in limine shall be FILED in conformance with the Court's Standing Order (attached) by noon on January 28, 2014, with any motion responses due by noon on January 31, 2014;

10. The parties shall SUBMIT a stipulation of facts, as comprehensive and detailed as possible, by noon on January 28, 2014; and

11. Proposed jury instructions and proposed jury verdict forms shall be FILED by January 31, 2014.

BY THE COURT:

/s/ Stewart Dalzell, J.

¹ We trust given the parties' high level of sophistication that there will be no Daubert issues to resolve before trial. If our trust proves to be misplaced, we may have to revisit the trial date set herein.